

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 20-0667V

UNPUBLISHED

SAMEER PATEL,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: December 16, 2022

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

Leigh Finfer, Muller Brazil, LLP, Dresher, PA, for Petitioner.

Alexa Roggenkamp, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On June 1, 2020, Sameer Patel filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that he suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza vaccination he received on December 22, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On February 22, 2022, a ruling on entitlement was issued, finding Petitioner entitled to compensation for Petitioner’s SIRVA. ECF No. 27. On December 16, 2022, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$72,000.00 in actual pain and suffering and \$563.55 to satisfy a State of Arizona Medicaid lien. Proffer at 1-2. In the Proffer, Respondent represented that

¹ Because this unpublished Decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award the following:**

- **A lump sum payment of \$72,000.00 in the form of a check payable to Petitioner for actual past pain and suffering.** This amount represents compensation for all damages that would be available under Section 300aa-15(a)(4); and
- **A lump sum payment of \$563.55, representing compensation for satisfaction of the State of Arizona Medicaid lien, payable jointly to Petitioner and to: Equian, P.O. Box 182643, Columbus, OH 43218.** This amount represents all remaining elements of compensation to which Petitioner would be entitled under Section 300aa-15(a)(1)(B).
- These amounts represent all elements of compensation to which Petitioner would be entitled under Section 300aa-15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

SAMEER PATEL,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 20-667V
Chief Special Master Corcoran
ECF

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On June 1, 2020, Sameer Patel (“petitioner”), filed a Petition for compensation under the National Childhood Vaccine Injury Act of 1986, as amended (“the Vaccine Act” or “the Act”), 42 U.S.C. §§ 300aa-1 to -34, alleging that he suffered a shoulder injury related to vaccine administration (“SIRVA”) in his left shoulder as a result of an influenza (“flu”) vaccine administered on December 22, 2017. Petition at 1. On February 22, 2022, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report indicating that this case is appropriate for compensation under the terms of the Act, and the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 26; ECF No. 27.

I. Items of Compensation

A. Pain and Suffering

Respondent proffers that Sameer Patel should be awarded \$72,000.00 in actual pain and suffering. *See* 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

B. Medicaid Lien

Respondent proffers that petitioner should be awarded funds to satisfy a State of Arizona Medicaid lien in the amount of \$563.55, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of Arizona may have against any individual as a result of any Medicaid payments the State of Arizona has made to or on behalf of petitioner from the date of her eligibility for benefits through the date of judgment in this case as a result of his alleged vaccine-related injury suffered on or about December 22, 2017, under Title XIX of the Social Security Act.

The above amounts represent all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner be made through two lump sum payments as described below:

- 1) A lump sum payment of \$72,000.00 in the form of a check payable to petitioner.¹
- 2) A lump sum payment of \$563.55, representing compensation for satisfaction of the State of Arizona Medicaid lien, payable jointly to petitioner and to:

Equian
P.O. Box 182643
Columbus, OH 43218

Petitioner agrees to endorse this payment to Equian for satisfaction of the Medicaid lien.

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future lost earnings and future pain and suffering.

Respectfully submitted,

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C. SALVATORE D'ALESSIO
Director
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HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

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/s/ Alexa Roggenkamp
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